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May 2nd, 1935.

Mr. F. H. Scheid, Secretary,  
Arizona State Barber Board,  
Phoenix, Arizona.

Dear Mr. Scheid:

Referring to your oral request for an opinion from this office as to whether or not the City of Prescott may, by ordinance, regulate the opening and closing hours of Barber shops of said city.

A careful study of the charter of the City of Prescott, (Laws of 1893, Act #37, in Chapter 66), fails to disclose either an expressed or implied power granted to the City of Prescott to regulate by ordinance the opening and closing hours of Barber shops. A further study of the provisions of Chapter 12 of the Revised Code of Arizona, 1928, also fails to disclose any such powers.

Our Supreme Court in several cases has held that a city or town has only those powers which are granted in express words, or those powers necessarily or fairly implied in or incident to powers expressly granted by their charters, articles of incorporation, or by the Legislature.

Clayton vs. State, 36 Ariz. 135.

In the absence of any express statutory authority to regulate, by ordinance, the opening and closing hours of Barber shops, it is our opinion that such ordinance would not be a proper exercise of the police power, and would therefore be void and have no force and effect whatsoever.

State vs. Ernst, 275 Pac. 110

Chaires vs. Atlanta, 159 S.E. 559; 56 A.L.R. 230.

For the above reasons and authorities cited it is the opinion of the Attorney General that such an ordinance, passed by the city of Prescott, would be null and void, and would have no force, effect whatever.

or  
Respectfully submitted,

JOHN L. SULLIVAN  
Attorney General

Elmer C. Coher  
Assistant Attorney General

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